The practice of business is to be considered, not as conclusive, but as evidence of what is reasonable; and business practice demands no such personal examination. Merely to compare cash balances with book balances and to examine collateral securities would take a director more time than can in fairness be asked; and if in addition he were required to make a study of the receivable paper and the specific entries in the ledger no business man would accept the office. In supporting the rule of *Briggs* v. *Spaulding, supra*, it must be remembered, moreover, that the rule is not dogmatic; it requires a consideration of all the circumstances of each case; and when circumstances give rise to suspicion it would hold a director culpable in not setting on foot an investigation. Only so long as he acts in good faith can he be protected from liability.

DECLARATIONS OF PHYSICAL CONDITION. — Perhaps no branch of the law of evidence has had such an important development in recent years as the exception to the rule against hearsay in respect to declarations by a person as to his mental or physical condition. This exception, like all exceptions to hearsay, is based on historical grounds rather than on any broad principles of reasoning, and unfortunately its development in our different States has not been uniform. In a recent case in the New Jersey Court of Appeals it was stated that the declarations by the plaintiff of his symptoms made to a physician in order that the latter might give his opinion as witness for the plaintiff, are not admissible. The action for injuries by the plaintiff had already been commenced. *Lambertson* v. *Consolidated Co.*, 38 Atl. Rep. 683. The court says that statements made to a physician for the purpose of treatment derive "credibility beyond hearsay" because of the strong incentive of a patient to speak truthfully to one about to administer remedies to him. But when the physician is merely to give his opinion for the patient, all incentive to truthfulness is gone, and, instead, "self-interest becomes a motive for distortion, exaggeration, and falsehood."

The Court seems to assume that declarations of symptoms are admissible only when made to a physician for the purpose of treatment; a view which, it must be admitted, has grown up in several States, (see, for example, *Grand Rapids R. R.* v. *Huntley*, 38 Mich. 537.) The better rule, however, seems to be that declarations of physical or mental condition made to any one are admissible as evidence of such condition. (Greenleaf, 15th ed., § 102.) As to the objection that the declarations were *post litem motam*, that rule, as a rule of exclusion, seems to have been uniformly applied only to declarations as to matters of pedigree or of public and general interest. That the statements, then, in the present case were made for the purpose of enabling the physician to testify for the declarant, and that an action had already been commenced by the latter, would appear rather to detract from the weight of such evidence than to exclude it altogether. The motive for fraud or falsehood in making the declarations would vary according to the circumstances of each case, and the jury, under proper instructions, would judge of the credibility of the evidence.

A LIBERAL CONSTRUCTION OF A MECHANIC'S LIEN LAW.—The object of the Mechanic's Lien Law is "to make the pay of those whose labor has gone to enhance the value of the erection, prompt and secure in all

cases against both the misfortunes and the possible dishonesty of their employers; and the construction to be adopted is that which, without violating the true signification of the language employed, shall best promote the object and efficiency of the statute." Barrows, J., in *Collins Granite Co.* v. *Devereux*, 72 Me. 422. A recent illustration of liberal construction under such laws is the decision of the Supreme Court of the United States in *Springer Land Association* v. *Ford*, 18 Sup. Ct. Rep. 170. The question in this case was as to the extent of land subject to a lien for labor performed on a ditch. The statute gave a lien for labor performed on improvements on land, including ditches, and provided in general that "the land on which any improvement is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation of the same, — to be determined by the court, — is also subject." This was construed to give a lien not only on the ditch itself, but also on the tract of twenty-two thousand acres which the ditch was intended to irrigate. Chief Justice Fuller, for the court, says, in substance, that to limit the lien to the strip sixty feet in width and twenty-six miles long, which was actually occupied by the ditch, "would unreasonably circumscribe the meaning of the statute." The ditch could not be operated without the tract it was intended to water. "Each was dependent on the other, and both were bound together in the accomplishment of a common purpose."

Mechanics' lien laws are interpreted either strictly, as granting one class of citizens special privileges in derogation of the common law, or liberally, as fostering the improvement of the country by justly aiding the laborer. Courts generally shape their views according as the statute in question is equitable or not. If the statute proposes to charge the property of one man for the debts of another, it will be strictly construed; but if it gives no more than a fair security to the laborer out of the property of the employer, it will be interpreted liberally. The statute in this case seems just; and the court were doubtless correct in construing it liberally. Whether even by liberal construction the twenty-two thousand acres were "required for the convenient use" of the ditch, within the meaning of the legislature, is not as clear. Control of the ditch would give practical control over the lands, and would seem in itself ample security for the labor expended. It might be argued, moreover, that the words of the statute apply rather to the space necessary for conducting the water properly, for repairing the banks, and so forth, than to the land whose proprietors, by withholding their patronage, might make the operation of the ditch unprofitable. Still the decision from a moral standpoint is not unjust. Other jurisdictions have gone even further; and considering the present tendency of legislation to give the mechanic every encouragement, the result here reached is probably justifiable.

SHIPMENTS C. O. D. *versus* THE LIQUOR LAW. — A man in a place where the sale of intoxicants is prohibited orders liquor from a licensed dealer in an adjoining county to be sent C. O. D. On its arrival he pays the carrier the price and express charges, and is given possession. Has there been an offence under the liquor laws?

This question recently came before the Kentucky Court of Appeals, *James* v. *Commonwealth*, 42 S. W. Rep. 1107; and it was ruled that the transfer of title took place when the goods were given to the express